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August 23, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, D.C. 20554

PARKWAY
PROPERTIES

RE: Promotion of Competitive Networks in Local Telecommunications Markets, WT Docket No. 99-217; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98

Dear Ms. Salas:

We write in response to the FCC's Notice of Proposed Rulemaking released on July 7, 1999, regarding forced access to buildings. We enclose six (6) copies of this letter, in addition to this original.

We are concerned that any action by the FCC regarding access to private property by large numbers of communications companies may adversely affect the conduct of our business and needlessly raise additional legal issues. We believe that forced building access is an unconstitutional taking of property. The Commission's public notice also raises a number of other issues that concern us.

Background

Parkway Properties, Inc. is a self-administered real estate investment trust specializing in the operations, leasing, management, acquisition and financing of office properties in the southeastern United States and Texas. At August 9, 1999, Parkway owned or had an interest in 53 office properties located in 12 states with an aggregate of approximately 7,409,000 square feet of leasable space.

Issues Raised by the FCC's Notice

We do not believe the FCC needs to act in this field because we are doing everything we can to satisfy our tenants' demands for access to telecommunications.

1. FCC Action Is Not Necessary.

As a building owner with over seven million square feet of office space, we attempt to use our bargaining power to provide more

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efficient and reliable telecommunications services to our tenants. We have found that by using our portfolio size, we can provide the tenants with more economical service that they can usually obtain individually.

During the past twenty-four months, we have found the demand by our tenants for telecommunications services to be one of their main concerns. Consequently, we are promoting our relationship with various firms as amenities for our buildings that will enhance our ability to competitively lease the properties.

During the past eighteen months, we have signed agreements with several major companies that provide competitive service to our properties. Those firms include Telegent, Winstar, Hyperion and E-spire. These agreements were signed in response to our tenant's request for Internet service to the properties.

2. There Is No Such Thing As "Nondiscriminatory" Access.

There is no such thing as nondiscriminatory access. There are dozens of providers, but limited space in buildings means that a handful of providers can install facilities in buildings. "Nondiscriminatory" access discriminates in favor of the first few entrants, creating a barrier to entry for small providers and future providers. Building owners want to enhance competition and be able to do business with all providers, not just a few giants of today.

A building owner must have control over who enters the building, especially when there are multiple providers involved. A building owner faces liability for damage to building, leased premises, and facilities of other providers, and for personal injury to tenants and visitors. A building owner is also liable for safety code violations. Allowing forced access, even misleadingly couched as "nondiscriminatory" access, shifts the costs of correctly installing equipment in a way that will not harm the tenants or the physical premises to the building owner.

There is no such thing as discriminatory building access because the terms of building access must necessarily vary. For example, a new company without a track record poses greater risks than an established one, so indemnity, insurance, security deposit, remedies and other terms may differ. The value of building space and other terms also depend on many factors, such as location and available space.

Building owners must be vigilant for the qualifications and reliability of telecommunications providers in order to protect tenants. Due to the magnitude of new firms competing for the tenant's accounts, we feel that it is incumbent upon the owner to screen and qualify the firms providing service to the buildings. We accomplish this by insisting that the telecommunications firms sign our agreement which protects us both financially and legally from firms that are not long-term players in the industry.

"Nondiscriminatory" access amounts to federal rent control. Building owners often have no control over terms of access for Bell companies and other incumbents: they were established in a monopoly environment. The only fair solution is to let the new competitive market decide and allow owners to renegotiate terms of all contracts. A building owner must not be forced to apply old contracts with the Bell company as lowest common denominator because the building owner had no real choice in negotiating those contracts.

If carriers can discriminate by choosing which buildings and tenants to serve, building owners should be allowed to do the same. It is our experience that telecommunication firms generally want to select certain buildings in our portfolio to provide their service. Due to their requirements of capital investment, geographical limitations or lack of demand, these firms usually "cherry pick" the buildings that will benefit them the most. As a result, we have entered into agreements with several firms in an effort to provide the service to our entire portfolio.

3. Scope of Easements.

FCC cannot expand scope of the access rights held by every incumbent carrier (the Bell-type companies) to allow every competitor to use the same easement or right-of-way. Grants in many buildings are narrow and limited to facilities owned by the grantee.

If owners had known government would allow other companies to piggyback on the incumbent, they would have negotiated different terms. Expanding rights now would be an unconstitutional taking.

4. Demarcation Point.

The current demarcation point rules are working because they offer flexibility. There is no need to change them.

Each building is a different case, depending on owner's business plan, nature of property and nature of tenants in the building.

Some building owners are prepared to be responsible for managing wiring and others are not.

5. Exclusive Contracts.

It is Parkway's policy to enter into non-exclusive agreements only. We have not selected a preferred provider nor do we plan to do so.

6. Expansion of Satellite Dish Rules.

The FCC should not expand the rules to include data and other services, because the law only applies to antennas used to receive video programming.

Expanding the rules would only hurt tenants.

In conclusion, we urge the FCC to consider carefully any action it may take, as we believe that the current proposals are unwarranted and unconstitutional. Thank you for your attention to our concerns.

Sincerely,

Steven G. Rogers
President and Chief Executive Officer